UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

ATEN INTERNATIONAL CO., LTD., and ATEN TECHNOLOGY, INC.	)	
Plaintiffs,	)	**Case No. 2:08-cv-00253-DF-CE**
v.	)	**JURY TRIAL DEMANDED**
EMINE TECHNOLOGY CO., LTD., BELKIN INTERNATIONAL, INC., and BELKIN, INC.	)	
Defendants.	)	

PLAINTIFFS ATEN INTERNATIONAL CO., LTD. AND ATEN TECHNOLOGY, INC.'S ANSWER TO DEFENDANTS BELKIN INTERNATIONAL, INC. AND BELKIN INC.'S SUPPLEMENTAL COUNTERCLAIMS

Plaintiffs ATEN International Co., Ltd. and ATEN Technology, Inc. (collectively, "ATEN") hereby submit this answer to the supplemental counterclaims asserted in Defendants Belkin International, Inc. and Belkin, Inc.'s (collectively, "Belkin") Supplemental Answer to ATEN's First Amended Complaint and Counterclaims filed and served on May 11, 2009 ("Counterclaims"). ATEN responds to the Counterclaims, Paragraphs 91-148, as follows:

JURISDICTION AND VENUE

91. ATEN admits that Belkin has asserted counterclaims pursuant to 28 U.S.C. §§ 2201 and 2202 seeking declaratory relief. The contents of the alleged counterclaims speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 91 of the Counterclaims.

92. In response to Paragraph 92 of the Counterclaims, ATEN admits that venue is proper in this district.

93. ATEN denies the allegations of Paragraph 93 of the Counterclaims.

94. ATEN admits the allegations in the first three sentences of Paragraph 94 of the Counterclaims except that the ’275 patent has been assigned to both ATEN International Co., Ltd. and to ATEN Technology, Inc. ATEN admits that Sun Chung Chen was the Chief Executive Officer of ATEN International Co., Ltd. throughout the prosecution of the ’275 patent. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 94 of the Counterclaims.

95. ATEN denies the allegations of Paragraph 95 of the Counterclaims.

96. In response to the allegations of Paragraph 96 of the Counterclaims, ATEN asserts that the contents of the ’275 patent speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 96 of the Counterclaims.

97. In response to Paragraph 97 of the Counterclaims, ATEN asserts that the contents of the Office Action speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 97 of the Counterclaims.

98. In response to Paragraph 98 of the Counterclaims, ATEN asserts that the contents of the Office Action speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 98 of the Counterclaims.

99. In response to Paragraph 99 of the Counterclaims, ATEN asserts that the contents of the file history speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 99 of the Counterclaims.

100. ATEN asserts that the contents of claim 1 of the ’275 patent as issued and of the corresponding claim as filed speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 100 of the Counterclaims.

101. ATEN asserts that the contents of claim 3 of the ’275 patent as issued and of the corresponding claim as filed speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 101 of the Counterclaims.

102. ATEN asserts that the contents of claim 10 of the ’275 patent as issued and of the corresponding claim as filed speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 102 of the Counterclaims.

103. ATEN asserts that the contents of the ATEN 1996 product catalog speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 103 of the Counterclaims.

104. ATEN lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 104 of the Counterclaims and therefore denies them.

105. ATEN lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 105 of the Counterclaims and therefore denies them.

106. ATEN admits that ATEN International Co., Ltd. has manufactured a product with the product number CS-106. ATEN denies that either the CS-106 or the “Belkin Omniview AT Style KVM Switch” constitute prior art under 35 U.S.C. § 102(b) to the ’275 patent and denies that it sold the CS-106 in the United States in 1996. ATEN lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 106 of the Counterclaims and therefore denies them.

107. In response to Paragraph 107 of the Counterclaims, ATEN asserts that the contents of the file history and of the ’275 patent speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 107 of the Counterclaims.

108. ATEN lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 108 of the Counterclaims and therefore denies them.

109. In response to Paragraph 109 of the Counterclaims, ATEN asserts that the contents of ATEN's infringement contentions served in this litigation speak for themselves. ATEN lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 109 of the Counterclaims and therefore denies them.

110. In response to Paragraph 110 of the Counterclaims, ATEN asserts that the contents of ATEN's contentions in this litigation speak for themselves. ATEN lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 110 of the Counterclaims and therefore denies them.

111. In response to Paragraph 111 of the Counterclaims, ATEN asserts that the contents of the file history of the '275 patent speak for themselves. ATEN lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 111 of the Counterclaims and therefore denies them.

112. In response to Paragraph 112 of the Counterclaims, ATEN asserts that the contents of the file history of the '275 patent speak for themselves. ATEN lacks knowledge or information sufficient to form a belief about the truth of the allegations concerning what the "Belkin Omniview AT KVM switch contained." Except as expressly admitted herein, ATEN denies the allegations of Paragraph 112 of the Counterclaims.

113. In response to Paragraph 113 of the Counterclaims, ATEN asserts that the contents of the '275 patent and of the referenced photographs and figure speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 113 of the Counterclaims.

114. In response to Paragraph 114 of the Counterclaims, ATEN asserts that the contents of the referenced figure speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 114 of the Counterclaims.

115. In response to Paragraph 115 of the Counterclaims, ATEN asserts that the contents of the file history of the ’275 patent speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 115 of the Counterclaims.

116. In response to Paragraph 116 of the Counterclaims, ATEN asserts that the contents of the file history of the ’275 patent and the structure of the referenced device speak for themselves. ATEN lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 116 of the Counterclaims and therefore denies them.

117. In response to Paragraph 117 of the Counterclaims, ATEN asserts that the contents of the file history of the ’275 patent and the structure of the referenced device speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 117 of the Counterclaims.

118. In response to Paragraph 118 of the Counterclaims, ATEN asserts that the contents of the ’275 patent and of ATEN’s contentions in this litigation speak for themselves. ATEN lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 118 of the Counterclaims and therefore denies them.

119. In response to Paragraph 119 of the Counterclaims, ATEN asserts that the contents of the referenced figure speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 119 of the Counterclaims.

120. In response to Paragraph 120 of the Counterclaims, ATEN asserts that the contents of the referenced figure speak for themselves. ATEN lacks knowledge or information

sufficient to form a belief about the truth of the remaining allegations in Paragraph 120 of the Counterclaims and therefore denies them.

121. In response to Paragraph 121 of the Counterclaims, ATEN asserts that the contents of the file history of the ’275 patent and the structure of the referenced device speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 121 of the Counterclaims.

122. In response to Paragraph 122 of the Counterclaims, ATEN asserts that the contents of the file history of the ’275 patent and the structure of the referenced device speak for themselves. ATEN lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 122 of the Counterclaims and therefore denies them.

123. In response to Paragraph 123 of the Counterclaims, ATEN asserts that the contents of the file history of the ’275 patent and the structure of the referenced device speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 123 of the Counterclaims.

124. In response to Paragraph 124 of the Counterclaims, ATEN asserts that the contents of referenced photograph speak for themselves. ATEN lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of Paragraph 124 of the Counterclaims and therefore denies them.

125. ATEN lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 125 of the Counterclaims and therefore denies them.

126. In response to Paragraph 126 of the Counterclaims, ATEN asserts that the structure of the referenced figure and of ATEN’s contentions in this litigation speak for

themselves. ATEN lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 126 of the Counterclaims and therefore denies them.

127. In response to Paragraph 127 of the Counterclaims, ATEN asserts that the contents of the file history of the ’275 patent speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 127 of the Counterclaims.

128. In response to Paragraph 128 of the Counterclaims, ATEN asserts that the contents of the file history of the ’275 patent and the structure of the referenced device speak for themselves. ATEN lacks knowledge and information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 128 of the Counterclaims and therefore denies them.

129. In response to Paragraph 129 of the Counterclaims, ATEN asserts that the contents of the ’275 patent and of the Microchip Data Book, 1992 Second Edition, speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 129 of the Counterclaims.

130. ATEN lacks knowledge and information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 130 of the Counterclaims and therefore denies them. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 130 of the Counterclaims.

131. ATEN denies the allegations of Paragraph 131 of the Counterclaims.

132. ATEN denies the allegations of Paragraph 132 of the Counterclaims.

133. In response to Paragraph 133 of the Counterclaims, ATEN asserts that the contents of the file history of the ’275 patent speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 133 of the Counterclaims.

134. In response to Paragraph 134 of the Counterclaims, ATEN asserts that the contents of the file history of the ’275 patent speak for themselves. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 134 of the Counterclaims.

135. ATEN denies the allegations of Paragraph 135 of the Counterclaims.

136. ATEN denies the allegations of Paragraph 136 of the Counterclaims.

137. ATEN denies the allegations of Paragraph 137 of the Counterclaims.

138. ATEN denies the assertions in Paragraph 138 of the Counterclaims, none of which are allegations.

FIRST COUNTERCLAIM
(For Declaratory Judgment of Patent Non-Infringement)

139. In response to Paragraph 139 of the Counterclaims, ATEN incorporates by reference the foregoing responses.

140. ATEN admits that an actual controversy exits between Belkin and ATEN as to whether Belkin infringes, contributes to the infringement of, or induces the infringement of United States Patent Nos. 7,035,112 (the “’112 patent”) and 6,564,275 (the “’275 patent’”). ATEN admits that ATEN contends that Belkin does so infringe and that Belkin contends that it does not so infringe. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 140 of the Counterclaims.

141. ATEN admits that Belkin seeks a judicial declaration of non-infringement of the ’112 and ’275 patents. ATEN denies the remaining allegations contained in Paragraph 141 of the Counterclaims.

SECOND COUNTERCLAIM
(For Declaratory Judgment of Patent Invalidity/Unenforceability)

142. In response to Paragraph 142 of the Counterclaims, ATEN incorporates by reference its responses to Paragraphs 139 through 141 of the Counterclaims.

143. ATEN admits that an actual controversy exists between ATEN and Belkin as to whether the ’112 and ’275 patents are valid. ATEN admits that ATEN contends that the ’112 and ’275 patents are valid and that Belkin contends that the ’112 and ’275 patents are invalid. Except as expressly admitted herein, ATEN denies the allegations of Paragraph 143 of the Counterclaims.

144. ATEN admits that Belkin seeks a judicial declaration that the ’112 and ’275 patents are invalid and/or are unenforceable. ATEN denies the remaining allegations contained in Paragraph 144 of the Counterclaims.

THIRD COUNTERCLAIM
(For Declaratory Judgment of Patent Unenforceability)

145. In response to Paragraph 145 of the Counterclaims, ATEN incorporates by reference its responses to Paragraphs 139 through 144 of the Counterclaims.

146. ATEN admits that ATEN has alleged that it is the owner of the ’275 Patent, that the ’275 Patent is valid and enforceable, and that Belkin has infringed the ’275 Patent by making, offering for sale, selling, and using certain products. The allegations of Belkin’s answer to ATEN’s complaint speak for themselves. ATEN denies the remaining allegations contained in Paragraph 146 of the Counterclaims.

147. ATEN admits that Belkin seeks a judicial declaration that the ’275 patent is unenforceable. ATEN denies the remaining allegations contained in Paragraph 147 of the Counterclaims.

148. ATEN denies the allegations of Paragraph 148 of the Counterclaims.

AFFIRMATIVE DEFENSES

(Failure to State a Claim)

The Counterclaims fail to state a claim upon which relief can be granted.

WHEREFORE, Plaintiffs and counter-defendants ATEN request that this Court enter judgment in its favor and against defendants and counter-claimants Belkin as follows:

(a) That Belkin takes nothing by way of these Counterclaims.

(b) That ATEN be granted the relief requested by ATEN in its First Amended Complaint.

(c) That the Court grant such other relief as the Court deems proper.

Dated: May 21, 2009

Respectfully submitted,

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ATTORNEYS FOR
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CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2009, the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). In addition, also on May 21, 2009, I served the above-referenced document on Emine Technology Co., Ltd. via U.S. Mail at the following address:

Emine Technology Co., Ltd.
c/o Michael Kao, CEO
8FL, No. 3, Lane 45, Sec. 2
Chung-San N. Rd.
Taipei, Taiwan

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Palo Alto, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

/s/ Kyle D. Chen__________
Kyle D. Chen